

STATE OF MAINE  
PUBLIC UTILITIES COMMISSION

Docket No. 97-855

December 2, 1997

TELEPHONE ASSOCIATION OF MAINE  
Request for an Advisory Ruling on  
Commission's Statutory Authority  
Regarding Toll Settlement  
Arrangements

ADVISORY RULING

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WELCH, Chairman; NUGENT and HUNT, Commissioners

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On November 6, 1997, the Telephone Association of Maine (TAM) requested an advisory ruling, pursuant to Chapter 110 § 601-604 of the Commission's rules. TAM asks the hypothetical question: If Bell Atlantic and the Independent Telephone Companies (Independents) are unable to reach agreement regarding the division of costs and revenues associated with providing toll service, is the Commission authorized to establish such division by order, including ordering the continuation of existing toll settlements arrangements for a period of time?

On November 12, 1997, the General Counsel afforded Bell Atlantic an opportunity to respond to TAM's request. Bell Atlantic filed its response on November 19, 1997. On November 25, 1997, TAM filed comments in response to Bell Atlantic's comments.

The General Counsel recommends, pursuant to Chapter 110 § 603, that we issue an advisory ruling. That ruling is contained below.

Under 35-A M.R.S.A. § 7901 Commission may order the division of costs between two or more telephone companies if the companies are unable to agree on the division. 35-A M.R.S.A. § 7901(2). If Bell Atlantic and any independent fail to reach agreement, either one could ask the Commission to order a division of costs. The Commission offers no opinion at this time on how it would establish such a division. The Commission would not necessarily order the continuation of previously existing rates.

The Commission could issue such a division in a temporary order under the authority granted in 35-A M.R.S.A. §§ 1303 and 1304. Under section 1303 the Commission may investigate any matter relating to a public utility. If sufficient grounds exist, a formal hearing is required under section 1304. When the Commission conducts such an investigation, section 1304(5) allows the Commission to issue a temporary order pending conclusion of a formal hearing. In issuing a temporary order, the Commission

must consider the likelihood that this would be its order at the conclusion of the case, the benefit to the public or affected customers compared to the harm to the utility or other customers and the public interest. Therefore, the Commission has the authority to make a temporary order if parties are unable to reach an agreement. Once again, however, the Commission offers no opinion as to what rate or terms it would temporarily order. There is no presumption in favor of continuing any existing rate temporarily.

TAM should be aware that if some of its members are unable to reach an agreement with Bell Atlantic, it is unlikely the Commission will be able to process any section 7901 requests on an expedited basis before the end of the year. Therefore, affected parties are urged to reach resolution of these issues on their own, at least on an interim basis.

Pursuant to Chapter 110 § 604 this Advisory Ruling does not constitute res judicata or legal precedent with respect to the issues raised before the Commission.

Dated at Augusta, Maine this 2nd day of December, 1997.

BY ORDER OF THE COMMISSION

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Dennis L. Keschl  
Administrative Director

COMMISSIONERS VOTING FOR:      Welch  
   Nugent  
   Hunt